IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO.369 OF 1992

State of Maharashtra .. Appellant

versus

Chandrakant Jamnadas Gandhi .. Respondent

...

Mr.D.P. Adsule, APP for the State.

Mr.Girish Agarwal i/b R.M.Agarwal for the respondent.

CORAM : V.M. KANADE, J

DATED : 17th December 2004.

P.C:-

1. Heard the learned APP appearing on behalf of the State and the learned counsel appearing on behalf of the respondent.

2. The offence in question had taken place on 13th January 1989. The prosecution case was that the accused had used saccrine in the Pan masala and had committed an offence under the Prevention of Food

Adulteration Act. One of the defence raised by the accused was that he was not the manufacturer of the said articles and that he had purchased the said articles and that the article which was in his possession was properly stored and he had sold it in the same state as he had purchased it. Food Inspector Shri Kulkarni had seized 10 tins of having identical labels each weighing 20 gms. A sample was collected and was sent to the public analyst who has given a report that it contained artificial sweetener in the said article. The trial Court held that there was a non compliance of sub rule(2) of Rule 4 and therefore, the report of the Central Food Laboratory could not be read in evidence. The trial Court further has observed that in the offence of any describing mark or seal in Form no.1, it was not possible to accept the said report and on the same grounds acquitted the accused. In the present case, the prosecution was launched in 1989. The accused was acquitted on 20th February 1992. More than 12 years have passed after the order of acquittal. The accused was selling a manufactured product. The Supreme Court in the case of A.P. Grains and Seed Vs. Union of India & ors. reported in AIR 1971 S.C. 2346 has held that a vendor shall not be deemed to have committed an offence

pertaining to the sale of any adulterated or misbranded article of food if he has purchased the said article and it is being sold in the same state as he purchased it. It is an admitted fact that the said articles were manufactured by the respondent accused and he was selling the said article in the same state as he had purchased it.

3. In this view of the matter, I do not see any reason to interfere with the said order passed by the trial Court.

4. Appeal is accordingly dismissed.

V.M. KANADE, J